MONTANA LEGISLATIVE HISTORY

Chapter 511 1923

Bill H _____ S 40 Original bill & history ____C

H. Committee on Fisheries Game		S. Committee on Executive Reorganization	
Hearing Date(s) Mar 12	✓ C	Hearing Date(s) Jan 26	✓ C
Mar 14	✓ C	Feb 09	✓ C
_____	____C	Feb 14	✓ C
_____	____C	Feb 16	✓ C
Date Out Mar 14	✓ C	Feb 19	____✓ C
		Feb 21	____✓ C

Did this bill originate in an interim committee? ____Yes ____No Feb 23 ✓

Committee _____ Report _____

M I N U T E S

Senate Committee On
EXECUTIVE REORGANIZATION

The fifth meeting of the Senate Committee on Executive Reorganization was called to order by Chairman David F. James on Friday, January 26 at 3:55 p.m. Roll call was taken, and a quorum present.

SENATE BILL NO. 40: Richard Llewellyn of the Executive Reorganization Department testified in favor of Senate Bill 40, and stated that he had a hand in the drafting of the bill. He felt there were no substantial changes made in this bill, and that the only contention there might be was that they had deleted reference to the "Supervisor of Outfitting."

Senator Lowe spoke as an opponent to Senate BIll 40. He stated that he didn't know what would prohibit clearing up the position of "Supervisor of Outfitting." Wesley Woodgerd of the Fish and Game Department also testified against the bill.

Mr. Ralph Holman, Treasure State Outfitters, stated that in the past the "Supervisor of Outfitting" had acted as laison between the Outfitters and the Fish and Game Commission. The elimination of this position takes away the authority of the Outfitters to choose their own Supervisor. He felt that reference to this position was very necessary. The Outfitters feel that they are a profession and that they have done well in the past at seeing to it that every Outfitter is qualified.

Alice Fryslie, Montana Outfitters and Dude Ranchers, said that she had a statement prepared to leave with the committee and hoped that they would have additional time to prepare testimony as many members of her organization had great distances to travel.

Others who testified against Senate Bill 40 were: Tag Aittel, Montana Outfitters and Dude Ranchers; Babe Sayre, Outfitter from Augusta.

In response to the testimony of the opponents, Richard Llewellyn stated that the Outfitters Council would not be abolished under Senate Bill 40, and that only style changes had been made. The legal relationship would remain the same. Wes Woodgerd stated that he agreed with Mr. Llewellyn.

Senator Lowe requested that additional time be allowed for other people to prepare testimony.

Senator Rosell suggested that the committee members have a copy of the Reorganization Act, and Senator Carl suggested that a map of the reorganization departments be obtained also.

There being no further business before the committee, the meeting was adjourned at 5:10 p.m.

JAMES

COMMITTEE ON EXECUTIVE REORGANIZATION BILL NO. SB40

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Check One: Oppos
Wes Woodgerd	Fish & Game		
Orville Lewis	Fish & Game		
Olaf Tveglie	Mont. Outfitters & Dude Ranchers		Sec. 3, ✓
Jack Kittel	MONT OUTFITTER & DUDE RANCHER		✓
Ralph Holman	Treasure State outfitters		✓
William R. Fore	Senator-		✓
Babe Gaspar	outfitter		
Richard Llewellyn	Executive Reorganization		
Morgan A. Hossfeld	Executive Reorganization		
Clayton R. Heron	Fish and Game		

(Please leave prepared statement with Secretary)

1/26/73

The Montana Outfitters and Dude Ranchers Association is opposed to S.B. 40. (the portion as refers to the Supervisor of Outfitting, Section 37 - Section 26-908.)

Members of the M.O.D.R. appeared in opposition to H.B. 184 abolishing the Outfitter Advisory Council and for many of the same reasons, this organization is in opposition to this section of S.B. 40. A Resolution handed by the Senate in the 1971 Legislative session instructed the Outfitters to get together and police their own industry. By the removal of the supervisor of outfitting as proposed by S.B. 40, the intent of the Senate Resolution above is defeated. The Outfitting Industry is a part of the third largest industry in the State of Montana, and as such, should surely be supervised by professional people who have a general knowledge of the industry, and that supervisor backed up by a professional board made up of members of the industry. By putting the supervisor of outfitting under the administration of the Fish and Game Department, the possibility of this position becoming political is apparent. While Governor Judge selected a competant, knowledgeable and qualified director of the Fish and Game Department, one must look to the future; and we may not be so fortunate next time. The prospect of the chain appointment of people who have no qualifications in the outfitting field is a definite threat.

Another point to be made is that the Senate Resolution was handed down at the session just past, and the "Outfitter Bill" has not had a chance to function. In fact, the election of the Outfitter Advisory Council will not be held until March 1, 1973; presently this council is made up of temporary appointees.

In the committee hearing of H.B. 184, the members of the State Reorganization office recommended the Council be left as is until 1974, at which time this council be changed to the professional licensing board.

It is the recommendation of M.O.D.R. that the Supervisor of Outfitting Section of S.B. 40 also be left as is.

Alice Fogelin
Exec. Secy
Mont. Outfitters & Dude Ranchers

M I N U T E S

Senate Committee On
EXECUTIVE REORGANIZATION

The ninth meeting of the Senate Committee on Executive Reorganization was called to order by Chairman David F. James at 4:00 p.m. on Wednesday, February 7. Roll call was taken, and a quorum present.

Chairman David James stated that most of the reorganization bills would have to be held over during the interim, and suggested that he assign one bill to each committee member to be in charge of. This person would then coordinate the research on the bill and present recommendations to the committee next session.

SENATE BILL NO. 40: Mr. Ralph Holman, Treasure State Outfitters, was present to testify in opposition to sections of this bill. He stated that Alice Fryslie and C. B. Rich were no longer in agreement with the Executive Reorganization office, and hoped that they would all have additional time to prepare testimony for the committee.

There was further testimony and questions in relation to the section of Senate Bill 40 about the "supervisor of outfitting" and the "outfitters council", which in post part duplicated what had been said at the Executive Reorganization meeting on Friday, January 26.

Others who were present to testify in favor of the bill were: Orville Lewis and Wes Woodgerd from the Fish and Game Department; Richard Llewellyn and Mantz Hutchinson.

The meeting was adjourned at 5:15 p.m.

James

JAMES

RE: SENATE BILL 40 OUTFITTER LAW BACKGROUND

For several years a number of outfitters, working with Forest Service, Fish & Game and other agency personnel have attempted to upgrade the outfitting industry and police themselves.

Governor Anderson and other government officials strongly recommended that outfitters get together and police themselves. A letter poll was taken to determine if outfitters wanted an appointed Board. Of those who took a definite stand, 18 to 1 said NO!!

In response to a 1969 joint senate-house resolution several outfitter sessions were held and a committee of ten (10) outfitters was appointed by the outfitter organizations and charged with the duty to compose a proposal for an outfitter law equitable to outfitters and to assure the client an ethical profession. Said legislative committee contacted outfitters in all areas of Montana for opinions. We reached out; we got feedback and we used it to construct a proposal for an outfitter law designed to upgrade and promote our industry.

Our law is an accumulation of the opinions of a large number of outfitters. It gives equal representation to all of the Fish & Game districts of Montana; it provides for an elected council to be elected by outfitters; it provides landowner protection; it provides for the resident to take non-resident friends hunting; it provides environmental protection and for the health and welfare of the client.

We placed stringent rules and regulations upon ourselves; we encouraged and imposed very high standards; we agreed to equal responsibility; we increased our license fees by five (5) times and we licensed our guides.

Our elected outfitter council is completely self sustaining with no reimbursement for expenses. The intent of the law was that the council had the authority and duty to recommend rules, regulations, outfitter standards, hearings and proceedings to suspend or revoke licenses of outfitters and guides, suspension or revocation of license for due cause, to prescribe all requisite qualifications for license including training, experience, knowledge of rules and regulations of governmental bodies pertaining to outfitting and condition and type of gear and equipment, to safe guard the health, safety and welfare of those persons utilizing the services of outfitters, for the protection of landowners and the general public, to establish grounds for suspension or revocation of license, and to establish license fees and other qualifications, standards, rules and regulations as may be required to upgrade and promote the outfitting industry.

It was intended that our elected outfitter council is to function as an independent Board with authority to hold meetings, to elect a chairman and vice chairman, establish council rules and regulations, compile recommendations pertaining to the above for presentation to the Department of Fish and Game, the Fish & Game Commissioners and other agency personnel, to cooperate with government agencies, and other duties designed to upgrade the outfitting profession.

Further intent of our law is to provide for a "supervisor of outfitting" to assure qualified liaison between the Department of Fish & Game, the Fish & Game Commissioners and the council. It is of utmost importance that the supervisor of outfitting has extensive knowledge of the outfitting profession which he has gained from outdoor experience and exposure to the industry. It is further essential that he will cooperate with the council and promote the recommendations of same.

Outfitting has grown to be a very large and important segment of Montana's third largest industry "Recreation", an industry extremely important to the economy of Montana. Our profession is largely responsible for generating an income into the economy of Montana, primarily from non-resident sportsmen that is estimated to be between eighteen and twenty million dollars.

The outfitting industry consists of concerned ranchers, dude ranchers and others who have joined to assure qualified outfitting and guiding service. A good outfitter must have a good working knowledge of stock and do his own veterinary work while in the back country; he must be a guide, woodsman, weatherman, conservationist and environmentalist. He must have thorough knowledge of Fish & Game laws, of Forest Service regulations, sanitation, game habits, first aid and firearms, be qualified to properly care for meat and trophys and provide for the safety and comfort of his guests. It is further essential that he conduct an ethical and prudent operation.

To limit or restrict the authority of the outfitter council in matters pertaining to the outfitting industry will seriously jeopardize the progress and substantial improvement in outfitter-client relations and agency-outfitter relations resulting from the outfitter councils efforts to upgrade and police an outstanding profession. Many agency representatives have stated that our accomplishments are a large forward step.

We therefore respectfully ask that proposed amendments, construed as detrimental to the status of the council, or that would limit the effectiveness of the council on outfitter matters, or in any way impose a substantive change in our outfitter law, be denied.

Thank You,

Ralph Holman

M I N U T E S

Senate Committee On
EXECUTIVE REORGANIZATION

The tenth meeting of the Senate Committee on Executive Reorganization was called to order by Chairman Keenan at 9 a.m. in Room 402 of the State Capitol Building on February 14, 1973. Roll call was taken and a quorum was present. Senators Shea and Story were excused.

The meeting time was changed to Monday, Wednesday and Friday at 9 a.m. due to the unavailablity of some senators on adjournment.

The Chairman stated that the committee was supposed to have three bills which were considered priority bills, but they are not available to the committee as yet.

SENATE BILL 40. Mr. Ralph M. Holman, Treasure State Outfitters, testified that they would go along with the proposed amendments as outlined by the Fish and Game Department and the Executive Reorganization Office, if these parties would agree to strike the word "advisory" wherever found in the bill. The Fish and Game agreed to do this.

Mr. Llewellyn, Fish and Game Department, was asked to try to contact the attorney who would assist the committee on the proposed amendments. Mr. Hutchinson, the attorney, was not available for this meeting.

Mr. Wesley Woodyerd, Director of Fish and Game, briefed the committee on the progress made so far on this bill. He was asked to go over the proposed amendments with the committee and each section was considered.

On the first page of the amendments proposed by the Executive Reorganization Office, the committee reviewed as far as the section dealing with and including page 34, line 23.

On the Fish and Game Proposed Amendments, the committee reviewed and discussed as far as and including page 24, beginning with line 17.

At page 28 of the Fish and Game Amendments, there were some disagreements dealing with a new subsection six (6). and it was agreed to take this section up at the next meeting.

Senator Carl made a motion to approve the amendments which had so far been reviewed. The motion was seconded and CARRIED.

The meeting was adjourned at 9:50 a.m.

P. J. Keenan

P. J. Keenan, Chairman

M I N U T E S

Senate Committee on
EXECUTIVE REORGANIZATION

The eleventh meeting of the Executive Reorganization Committee was called to order by Chairman Keenan on February 16, 1973, at 9:07 in Room 402 of the State Capitol Building.

The secretary called the roll and a quorum was present. Senators Boylan, Rosell and Carl were excused.

SENATE BILL 40. Mr. Wes Woodgerd, Director of the Fish and Game Department, Mr. Richard Llwewlyn, Mr. Orville Lewis and Mr. Keith Freseman, all of the Fish and Game Department, were also present.

Mr. Mantz Hutchinson of the Executive Reorganization Office was present for consultation.

Mr. Woodgerd continued on the amendments offered the committee by the Fish and Game Department and the Executive Reorganization Office, which the committee had previously taken up in the last meeting. All of the proposed amendments were discussed and several members had questions at various times during the meeting. These questions were all satisfactorily answered by the members of the Fish and Game Department and the representative from the Executive Reorganization Office.

Mr. Hutinson offered three amendments which would correct typographical errors in the printed bill.

The Chairman, Senator Keenan, called for a roll call vote to accept or reject the amendments proposed by the Fish and Game Department and the Executive Reorganization Office and those three offered by Mr. Hutchinson. The committee unanimously PASSED on those amendments as offered.

Senator Deschamps offered an amendment which was as follows: On page 84, line 4, after the word "game", insert the words "domestic Livestock," This amendment was not voted on at this meeting and will be taken up on Monday.

The meeting was adjourned by the chairman at 10:09 a.m.

P. J. Keenan

P. J. Keenan, Chairman

SENATE COMMITTEE Executive Reorganization

Date 2/16/73 Senate Bill No. 40 Time 10 a.m.

NAME	YES	NO
ABER, Larry	X	
CARL, Fred	absent	
DESCHAMPS, G. W.	X	
GOODHEART, B. J.	X	
MCOMBER, Gordon	X	
ROSELL, Antoinette	absent	
SHEA, James R.	X	
SIDERIUS, George	X	
STORY, Peter R.	X	
BOYLAN, Paul F.	absent	
KEENAN, P. J.	X	

Yvonne Swiden
Secretary

Chairman

Motion: Proposed amendments by the Fish and Game Department and the Executive Reorganization Office and amendments offered by Mr. Hutchinson be PASSED.

M I N U T E S

Senate Committee On
EXECUTIVE REORGANIZATION

The twelfth meeting of the Executive Reorganization Committee was called to order by the Chairman, P. J. Keenan at 9:10 a.m. on February 19, 1973, in Room 402 of the state Capitol Building.

A quorum was present iwth Senators Boylan, Carl, McOmber, Rosell and Goodheart absent.

SENATE BILL 40

The committee heard further comment from some of the members on SB 40. Two new amendments were offered for approval.

Senator Deschamps made a motion to amend SB 40 by inserting the following: Section 61, Page 83, line 5, after the word and period "members." insert the following new material: "At least one member to be experienced in the breeding and management of domestic livestock.".

This motion was seconded and CARRIED.

Senator Story made a motion to amend SB 40 by the following: Section 41, pages 58 and 59, lines 23, 24, and 25 and lines 1 and 2, by striking the material following the word and period "execution." found on page 58, line 23.

The motion was seconded and CARRIED.

Senator Siderius asked that the secretary notify all members of the committee be asked to be present at the next meeting to take final action on SB 40. Some members had been absent when approval had been given to the proposed amendments.

SENATE BILL 453

Senate Bill 453 was discussed lightly and it was decided to notify the National Guard to be present to testify on the Wednesday meeting. The committee would also like to have someone present to represent Executive Reorganization Office.

The meeting was adjourned at 9:25 a.m.

P. J. Keenan

P. J. Keenan, Chairman

M I N U T E S

Senate Committee On
EXECUTIVE REORGANIZATION February 21, 1973

The 13th meeting of the Executive Reorganization Committee was called to order at 9:10 a.m. in Room 402 of the state Capitol Building on February 21, 1973 by chairman Keenan.

The roll was called and a quorum was present.

SENATE BILL 40

The committee took final action on SB 40 after a brief explanation of what had been done to amend the bill while some of the members were absent.

Chairman Keenan read a letter in support of SB 40 from Clayton Herron,Fish and Game Commission Special Assistant to the Attorney General.

Senator Shea moved that SB 40 be passed as amended. Senator Siderius seconded the motion and a roll call vote was taken. SB 40 received a unanimous DO PASS AS AMENDED.

SENATE BILL 453

Senator Siderius, sponsor of the bill, explained that this bill had been assigned to him to sponsor and was necessary to bring the Department of Military Affairs into line with the law under the new codes.

Norm Grosfield, Attorney for the Executive Reorganization Office, stated that this bill has been needed for nearly 50 years, as the old laws do not comply with the federal laws. This bill was patterned after the New Jersey law which is felt ot be exemplary. The new law is about 1/4 the size of the present law, and much simpler and clearer.

General Harry Thode of the Department of Military Affairs, testified as to the worth of the proposed bill. The state now pays only 4% of the costs involved in the military department.

General Thode suggested some amendments. These are attached;

Mr. Larry Kincheloe, Military Affairs Division of the State, also proposed some amendments.(attached) which the committee will study and take further action on next week.

Further amendments proposed were as follows:

On Page 2, line 7, correct the word "carryout" to read "carry out".

SENATE COMMITTEE Executive Reorganization

Date 2-21-73 SENATE Bill No. 40 Time 9:30 a.m.

NAME	YES	NO
ABER, Larry	Absent	
CARL, Fred	X	
DESCHAMPS, G. W.	Absent	
GOODHEART, B. J.	Absent	
MCOMBER, Gordon	X	
ROSELL, Antoinette	X	
SHEA, James R.	X	
SIDERIUS, George	X	
STORY, Peter R.	X	
BOYLAN, Paul F.	X	
KEENAN, P. J.	X	

Yvonne Swiden
Secretary

Keenan
Chairman

Motion: SENATE BILL 40--DO PASS AS AMENDED

COMMITTEE ON Executive Reorganization BILL NO. 453 & 40

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Oppo
Larry Kirchelow	Mont. Civil Defense Div.	X	
Tom Mosfield	Executive Reorganization Office	X	
Harry W. Thode	Dept of Military Affairs	X	
Clayton R Herron	Attorney - Fish & Game	SB-40	
Orville Lewis	Fish & Game	"	
Wes Woodcock	" "	"	

(Please leave prepared statement with Secretary)

M I N U T E S
Senate Committee On

February 23, 1973

EXECUTIVE REORGANIZATION

The 14th meeting of the committee on Executive Reorganization was called to order by Chairman Keenan at 9:20 in Room 402 of the state Capitol Building on February 23, 1973.

Roll was called and a quorum was present.

Senate Bill 40

SB 40 was recalled from printing due to the ommission of an amendment to the title.

Mr. Hutchinson was asked to explain the reason for deleting the effective date in the title of the bill. He explained that this is done to save money on the cost of reprinting the bills under Executive Reorganization.

A motion was made by Senator Rosell and seconded by Senator Story. The motion was to amend the title of SB 40 and CARRIED.

Senate Bill 453

After consideration of the proposed amendments as explained at the last meeting, A motion was made and seconded to PASS AS AMENDED on SB 453. A roll call vote was taken and the motion was unanimously carried.

The meeting was adjourned at 9:30 a.m.

P. J. Keenan

P. J. Keenan, Chairman

March 12, 1973

FISH AND GAME COMMITTEE

The meeting was called to order at 10:30 a.m., with all members present except Representatives Johnston, Barrett, Prevost and Roberts, who were excused.

Senate Bill 40 was discussed. Senator Siderius, chief sponsor, appeared before the committee and explained that this is an Executive Reorganization bill. He submitted the attached explanation.

Mr. George Bousliman, Deputy Director of Executive Reorganization, and Mr. Wes Woodgerd, Director of the Fish and Game Department, appeared as proponents of the bill.

Mr. Claude Hookham (statement attached) appeared as an opponent to certain sections. Mr. Mons Tiegen, Montana Stockgrowers Association, testified much the same as Mr. Hookham.

Mr. Bousliman testified that the bill contains the same laws with a few exceptions as the old codes. The few substantive changes are explained in Senator Siderius' attachments to these minutes.

A question and answer period followed. Mr. Woodgerd explained the condemnation process, in particular regarding Beaverhead Rock. Mr. Rick Llwellyn, attorney with the Executive Reorganization Office, explained that minor changes in the bill will probably not be challenged, but major changes probably will be challenged.

There being no further business, the meeting adjourned at 11:45 a.m.

John B. Staigmiller

JOHN B. STAIGMILLER, Chairman

RECODIFICATION OF THE LAWS OF THE DEPARTMENT OF FISH AND GAME

This is an explanation of the proposed recodification of the laws pertaining to the Department of Fish and Game. The recodification was required in order to reflect the changes made by the Executive Reorganization Act of 1971. Briefly stated, the Reorganization Act:

--Abolished the Fish and Game Department and its units and transferred its functions to a newly created Department of Fish and Game;

--Left unchanged the respective statutory functions of the Fish and Game Commission and Fish and Game Director;

--Provided that the Fish and Game Director is to be appointed by the Governor to a term concurrent with the Governor's, and may not be removed by the Governor except for cause;

--Designated the Fish and Game Commission as a quasi-judicial board.

In addition to name changes (such as changing "State Fish and Game Warden" to "Fish and Game Director") and other changes to reflect the Reorganization Act, the recodification proposes that many style changes be made to reflect modern and simplified language. For the most part, only sections requiring name changes were amended. However, a few sections that required no name changes were so poorly drafted that they also needed style changes and updating of language. A few extremely long sections were divided into several separate sections. Altogether, 50 sections are proposed to be amended.

Some sections were found to be either superseded by other laws, including the Reorganization Act, or obsolete and no longer needed and are, therefore, proposed to be repealed. Still other sections are proposed to be repealed, with the substance of the section incorporated elsewhere in the laws.

A total of 16 sections are proposed to be repealed.

A section-by-section explanation of the proposed disposition of each section of the fish and game laws is contained in the reference table which follows.

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Substantive Amendments Made by Senate Committee

The Senate Executive Reorganization Committee made a number of amendments to Senate Bill 40. Most of these were merely "housekeeping" amendments. The Committee did make the following substantive amendments:

(1) In Section 2, pages 2 and 3, the Committee amended the bill to provide that the Department should pay a yearly rental of $4 per year for each square foot of office space furnished by the state. The Committee felt that the $2 per square foot currently charged is archaic and that $4 is more in line with the amount paid by other state agencies renting private facilities and using earmarked revenue money.

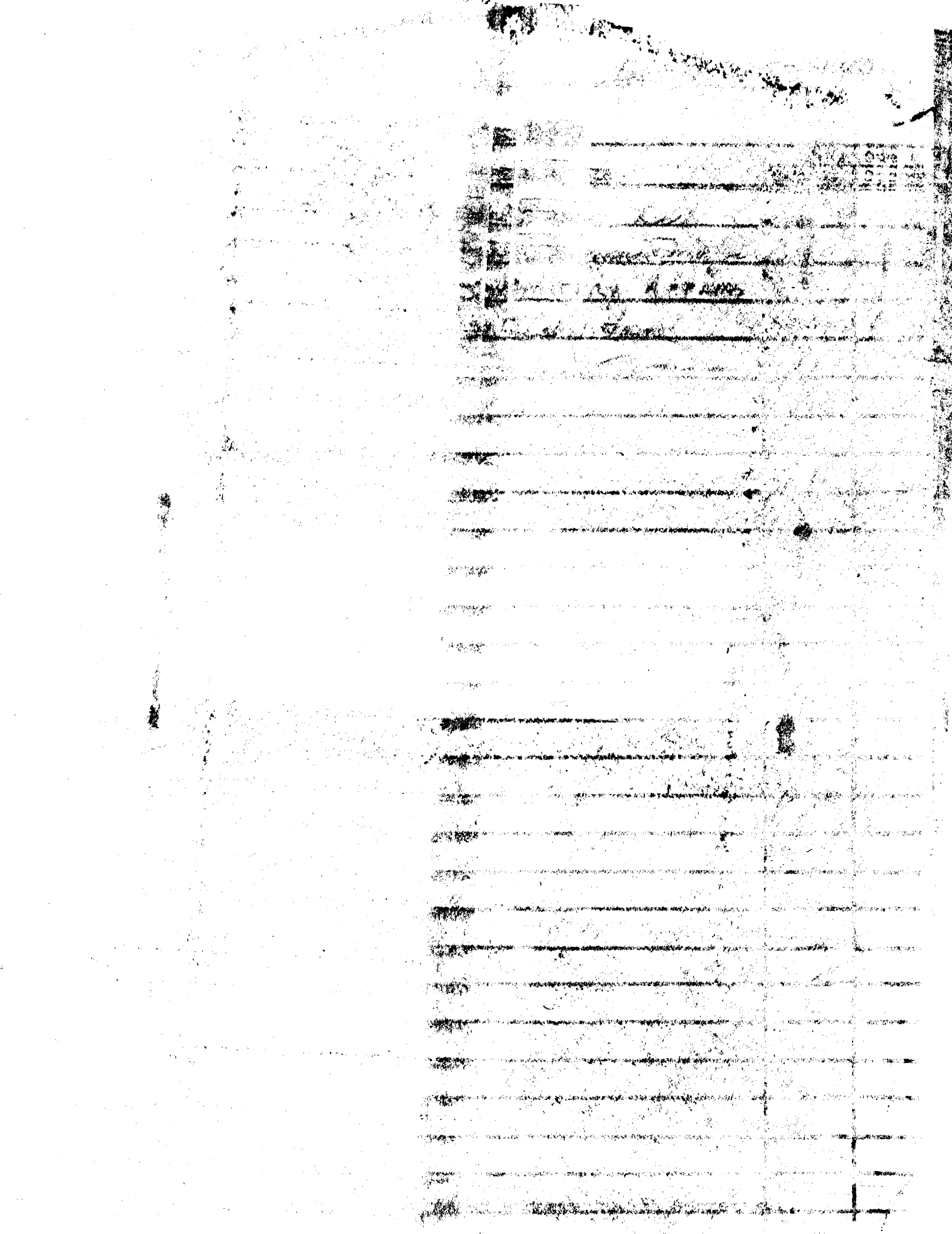
(2) In Section 11, page 24, the Committee deleted the archaic $2,000 annual limitation on reasonable and necessary travel expenses of the Director of Fish and Game. The Director of Fish and Game is apparently the only director of a department subject to such limitation. The Department's budget provides a more adequate limit anyway.

(3) In Section 12, page 23, the Committee amended the bill to provide that wardens may inspect fish and game and to provide that persons possessing fish and game shall display them upon request by a warden. This provision replaces the current law which allows almost unlimited warrantless searches and seizures and which is probably unconstitutional under modern constitutional law.

(4) In Section 61, page 84, the Committee amended the bill to provide that at least one member of the Fish and Game Commission shall be experienced in the

A total of 16 sections are proposed to be repealed.

A section-by-section explanation of the proposed disposition of each section of the fish and game laws is contained in the reference table which follows.



credited to the sinking fund account fifteen per centum (15%) of all money received from the collection of the nine cents (9¢) excise tax on cigarettes which is levied, imposed and assessed by section 84-5606, subdivision (2). The state also pledges and appropriates and directs to be credited as received to the sinking fund account all money received from the collection of each of the excise taxes on cigarettes which are levied, imposed and assessed by section 84-5606, subdivisions (3) and (4), as amended, after the payment and redemption in full of the outstanding bonds for which said taxes have heretofore been pledged and appropriated, or after the necessary funds have been set aside for such payment and redemption as provided in this *chapter*. The state also pledges and appropriates and directs to be credited as received to the sinking fund account all money received from the collection of the taxes on other tobacco products which are or may hereafter be levied, imposed and assessed by law for that purpose including the tax levied, imposed and assessed by section 84-6802, R.C.M. 1947. Nothing herein shall impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the War Veterans' Compensation Bonds, the World War I Veterans' Compensation Bonds or the presently outstanding long-range *building* program bonds. Subject to the provisions of the preceding sentence, the pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of all taxes referred to in this subdivision (6)."

Section 4. Section 79-2204, R.C.M. 1947, is amended to read as follows:

"79-2204. **Waiver of security provisions.** If so stated in any series of bonds issued hereunder, the purchasers and holders thereof may by their purchase and *retention* of the same waive in whole or in part the security otherwise made available for such bonds by any provision of this *chapter*."

Section 5. Section 79-2205, R.C.M. 1947, is amended to read as follows:

"79-2205. **Authorization of bonds.** The board is authorized to issue and sell long-range building program bonds in an amount not exceeding *two million five hundred thousand dollars ($2,500,000)*, over and above the amount of the long-range building program bonds outstanding January 1, *1973*, upon the conditions and in the manner stated in this chapter. The board is also authorized to issue and sell long-range building program bonds in such amount as may be required to provide funds for the payment or redemption of outstanding bonds as contemplated in section 79-2202, subdivisions *(1) and (5) and section 72-2203, subdivision (4)*."

Approved: April 2, 1973.

CHAPTER NO. 511

An Act for the Codification and General Revision of the Laws Relating to the Department of Fish and Game.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section numbered 26-101.1, R.C.M. 1947, which reads as follows:

26-101.1. **Definitions.** Unless the context requires otherwise, in title 26:

(1) "Department" means the department of fish and game provided for in title 82A, chapter 20;

(2) "Director" means the director of fish and game provided for in section 82A-2003;

(3) "Warden" means a state fish and game warden;

(4) "Commission" means the state fish and game commission provided for in section 82A-2004.

Section 2. Section 26-103, R.C.M. 1947, is amended to read as follows:

"26-103. **Meetings.** The members of the commission shall hold quarterly or other meetings for the transaction of business, at times and places it *considers* necessary and proper. *The* meetings *shall* be called by the chairman, or by a majority of the commission, and *shall* be held at the time and place specified in the call for the *meeting*. A majority of the members of the commission shall constitute a quorum for the transaction of any business which may come before it. The commission shall keep a record of all the business transacted by it. The chairman and secretary shall sign all orders, minutes, or documents for the commission. *The principal offices of the commission and department shall be located in or near Helena and suitable and adequate space therefor together with janitor services, light, heat and water shall be furnished by the state of Montana. Rental shall be charged therefor at a rate not to exceed four dollars ($4) per square foot per year for the total space occupied. Such rental collected shall be deposited to the credit of the state general fund.*"

Section 3. Section 26-104, R.C.M. 1947, is amended to read as follows:

"26-104. **Powers and duties of commission.** (1) The commission shall *supervise* all the wildlife, fish, game, *game* and nongame birds, and waterfowl, and the game, and fur-bearing animals of the state. *It possesses* all powers necessary to fulfill the duties

prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the commission.

(2) It shall enforce all the laws of the state respecting the protection, preservation, and propagation of fish, game, fur-bearing animals *and* game and nongame birds within the state.

(3) It shall have the exclusive power to *spend* for the protection, preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds all *state* funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. *Moneys* collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines *or* damages collected for violations of the fish and game laws, from appropriations, or received by the commission from any other sources are appropriated to and under control of the commission.

(4) It *may* discharge any appointee or employee of *the* commission for cause at any time.

(5) It *may* dispose of all property owned by the state, used for the protection, preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds, which *is* of no further value or use to the state, and shall turn over *the* proceeds *from the sale* to the state treasurer to be credited to the fish and game *account in the earmarked revenue fund.*

(6) It may not issue permits to anyone to carry firearms within *this* state, except to regularly appointed officers *or* wardens.

Section 4. There is a new section numbered 26-104.3, R.C.M. 1947, which reads as follows:

26-104.3. **Fixing of general and special seasons and bag and possession limits.** (1) The commission may fix seasons, bag limits, possession limits, and season limits; open or close, shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing animal as defined by section 26-201, and declare areas open to the hunting of deer, antelope, and elk by bow and arrow permit holders, and designate times when only bow and arrows may be used to hunt deer, antelope, and elk in those areas. It may declare areas open to deer hunting where shotguns only may be used to hunt or kill deer. It may declare areas open to special license holders only, and issue special licenses in a limited number when it determines, after proper investigation, that such a season is necessary to assure the maintenance of an adequate supply of game birds, fish, animals, or fur-bearing animals. It may declare a special season and issue special licenses when game birds or

animals or fur-bearing animals are causing damage to private property, or when written complaint of such damage has been filed with the state fish and game commission by the owner of that property. In determining to whom those licenses shall be issued, it may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system. The procedures used for awarding the permits from the drawing system shall be determined by the commission.

(2) The commission may adopt rules governing the use of livestock and vehicles, by archers, during special archery seasons.

(3) It may divide the state into fish and game districts, and create fish, game, or fur-bearing animal districts throughout the state. It may declare closed season for hunting, fishing, or trapping in any of those districts, and later may open those districts to hunting, fishing, or trapping.

(4) It may declare a closed season on any species of game, fish, game birds, or fur-bearing animals threatened with undue depletion from any cause. It may close any area or district of any stream, public lake, or public water, or portions thereof, to hunting, trapping, or fishing for limited periods of time, when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking stations, or to prevent the undue depletion of fish, game and fur-bearing animals, and game and nongame birds. It later may open the area or district upon consent of a majority of the property owners affected.

(5) It may declare certain fishing waters closed to fishing except by persons under thirteen (13) years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and enjoyment of juveniles under thirteen (13) years of age, at times and in areas the commission in its discretion considers advisable and consistent with its policies relating to fishing.

Section 5. There is a new section numbered 26-104.4, R.C.M. 1947, which reads as follows:

26-104.4. **Acquisition, importation, and propagation of fish, game, game birds, and fur-bearing animals—introduction and propagation of waterfowl food.** The commission may: (1) Acquire by gift, purchase, capture, or otherwise any fish, game, game birds, or animals, for propagation, experimental, or scientific purposes.

(2) Provide for the importation of game birds and game and fur-bearing animals and for the protection, propagation, and distribution of imported or native birds and animals.

(3) Use fish and game funds necessary for the construction,

maintenance, operation, upkeep, and repair of fish hatcheries, game farms or other property or means and appliances for the protection and propagation of fish, game and fur-bearing animals or game or nongame birds. It may appropriate moneys from the funds at its disposal for the extermination or eradication of predatory animals that destroy fish, game, or fur-bearing animals, or game or nongame birds.

(4) Spend fish and game funds necessary to introduce and propagate wild waterfowl food and for that purpose may secure expert advice as to what kinds of waterfowl foods are adapted to the climate, soil, and waters of this state.

Section 6. There is a new section numbered 26-104.5, R.C.M. 1947, which reads as follows:

26-104.5. **Construction and maintenance of fish hatcheries and fish ladders.** (1) The commission shall furnish plans for, direct, and compel the construction, installation, and repair of fish ladders upon dams and other obstructions in streams. The fish ladders shall be installed and maintained at the expense of the owners of the dam or other obstruction.

(2) The commission may purchase and maintain at the expense of the state fish and game fund suitable fish screens or fish wheels, or other devices, to install in irrigating ditches to prevent fish entering said ditches.

(3) The commission may locate, lay out, construct, and maintain nurseries and rearing ponds where fry can be planted, propagated, and reared to be distributed in the waters of this state. The commission may spend from fish and game funds, sums necessary for this purpose.

Section 7. There is a new section numbered 26-104.6, R.C.M. 1947, which reads as follows:

26-104.6. **Acquisition and sale of lands or waters by commission.** (1) The commission may acquire by purchase, condemnation, lease, agreement, gift, or devise, and may acquire easements upon lands or waters for the purposes listed in this subsection. The commission may acquire, develop, operate, and maintain acquired lands or waters:

(a) For fish hatcheries, nursery ponds, or game farms;

(b) As lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) For public hunting, fishing, or trapping areas;

(d) To capture, propagate, transport, buy, sell, or exchange

any game, bird, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes, or to exercise control measures of undesirable species;

(e) To extend and consolidate by exchange, lands or waters suitable for these purposes.

(2) The commission may dispose of lands and waters acquired by it on those terms after that public notice, and without regard to other laws which provide for sale or disposal of state lands, and with or without reservation, as it considers necessary and advisable. Notice of sale describing the lands or waters to be disposed of shall be published once a week for three (3) successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated, or if no newspaper is published in that county then in any newspaper with general circulation in that county. The notice shall advertise for cash bids to be presented to the commission or the director within thirty (30) days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to ten percent (10%) of the amount bid. The highest bid shall be accepted upon payment of the balance due within ten (10) days after mailing notice by registered mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders shall be similarly notified in succession until a sale is completed. Deposits shall be returned to the unsuccessful bidders except bidders defaulting after notification. The commission shall reserve the right to reject any bids which do not equal or exceed the full market value of the lands and waters as determined by the commission. The commission shall convey the lands and waters by deed without covenants of warranty, executed by the governor, or in his absence or disability by the lieutenant governor, attested by the secretary of state, and further countersigned by the chairman of the commission. The deed shall be attested by the secretary of the commission, but need not be acknowledged.

Section 8. There is a new section numbered 26-104.7, R.C.M. 1947, which reads as follows:

26-104.7. **Cooperative research, training, and other projects — educational and biological programs.** (1) The commission may enter into cooperative agreements with educational institutions and state, federal, or other agencies to promote wildlife research and to train men for wildlife management. It may enter into cooperative agreements with federal agencies, municipalities, corporations, organized groups of landowners, associations, and individuals for the development of game, bird, fish, or fur-bearing animal management and demonstration projects.

(2) It may establish and maintain an educational and biological program for the collection and diffusion of statistics and information germane to the purpose of this title.

Section 9. There is a new section numbered 26-104.8, R.C.M. 1947, which reads as follows:

26-104.8. **Creation of fish and game refuges.** (1) The commission may establish and close to hunting, trapping, or fishing, any game, bird, or fish refuge on public lands and, with the consent of the owner, on private lands. It may close streams, lakes, or parts of them, to hunting, trapping, or fishing.

(2) The commission may establish game refuges in which game and fur-bearing animals, game or nongame birds may breed and replenish. These refuges shall be established by order of the commission upon petition and proper showing that the action is, in judgment of the commission, necessary and in the best interest of the wildlife within the area to be included in the refuge. The purpose of this provision is to establish small refuges rather than large preserves or rather than close large areas to hunting or trapping.

(3) The commission may designate and protect certain areas as resting, feeding, and breeding grounds for migratory birds, in which hunting and molestation are forbidden. The purpose of this provision is not to interfere unduly with the hunting of waterfowl, but to provide havens in which they can rest, feed, and breed without molestation.

(4) After a petition has been duly filed with the secretary of the commission requesting that an area be set aside as a game refuge, the secretary shall immediately publish a notice in a paper of general circulation in the county in which the area is located. The notice shall state that a hearing on the matter will be held at a designated place in the county not less than fifteen (15) days after first publication, at which time and place all interested parties may appear and be heard.

Section 10. There is a new section numbered 26-104.9, R.C.M. 1947, which reads as follows:

26-104.9. **Regulation of use of lands.** (1) The commission may adopt and enforce rules governing uses of lands acquired or held under easement by the commission, or lands which it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules shall be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements shall itemize uses as listed in section 26-104.6.

(2) The commission may adopt and enforce rules governing recreational uses of public fishing reservoirs and lakes constructed by the commission or on reservoirs and lakes which it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules shall be adopted in the interest of public health, public safety, and protection of property in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, water skiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs or at designated areas along the shore of the reservoirs. These rules are subject to review and approval by the department of health and environmental sciences as to public health and sanitation before becoming effective. Copies of the rules shall show that endorsement.

Section 11. Section 26-106, R.C.M. 1947, is amended to read as follows:

"26-106. *Director of* **fish and game — qualifications — powers — duties.** *The director of* fish and game shall be the secretary of the commission, attend the meetings of *the* commission, and keep a record of all of its transactions. *The director* shall keep an inventory showing the description and value of all property owned by the state and under the administration of *the* commission. He shall be the administrative agent of the commission *and* custodian of the property and records of the department. He shall devote all of his time to his official duties *and his powers and duties include those of a warden.* He *is* subject to the supervision and control of *the* commission. The director *may,* by and with the consent of the commission, establish such department divisions and employ the necessary personnel that may be needed to conduct the work of the department. The director *shall be paid a salary fixed by the commission and shall be reimbursed for his actual and necessary expenses incurred while in the performance of his duties,* the same to be paid upon proper vouchers from the fish and game *account in the earmarked revenue* fund."

Section 12. Section 26-110, R.C.M. 1947, is amended to read as follows:

"26-110. **Qualifications, powers, and duties of wardens.** (1) *Wardens* shall be *qualified by their* experience, training, and skill in protection, conservation, and propagation of wildlife, game, and fur-bearing animals, fish and game birds, and interested in *this* work. *They* shall devote all of their time for which they are appointed to their official duties.

(2) *They* shall *enforce* the laws of *this* state and the rules of the commission with reference to the protection, preservation, and propagation of game and fur-bearing animals, fish, and game birds.

(3) *They* shall see that *persons* who hunt, fish, or take game, or fur-bearing animals, game birds, or fish, have necessary licenses.

(4) They shall assist in the protection, conservation, and propagation of fish, game, fur-bearing animals, *and* game and nongame birds, and assist in the planting, distributing, feeding, and *care of* fish, game, fur-bearing animals, and game and nongame birds. *They* shall, when ordered by the commission, assist in the destruction of predatory animals, birds, and rodents. *They* shall perform all other duties prescribed by the commission, and make a monthly report to *the* commission correctly informing the commission of *their activities on* each day of the preceding month, with regard to the enforcement of the fish and game laws, showing where *their* duties called *them,* and what *they did,* and *the reports* shall contain any pertinent recommendations *the wardens* may see fit to make.

(5) A warden may not compromise or settle out of court violations of fish and game laws.

(6) A warden has the authority to inspect any and all fish, game and nongame birds, waterfowl, game animals and fur-bearing animals at reasonable times and at any location other than a residence or dwelling and, upon request therefor, all persons having in their possession any fish, game and nongame birds, waterfowl, game animals and fur-bearing animals shall exhibit the same, and all thereof, to the warden for such inspection.

Section 13. There is a new section numbered 26-110.3, R.C.M. 1947, which reads as follows:

26-110.3. **Powers of wardens — enforcement — search and seizure — arrest.** A warden may: (1) Serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

(2) Search, without a warrant, any tent not used as a residence, boat, vehicle, box, locker, basket, creel, crate, game bag, package, or their contents, upon probable cause to believe that any fish and game law or commission rule, for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals, has been violated;

(3) Search, with a search warrant, any dwelling house or other building;

(4) Seize game, fish, game birds, and fur-bearing animals, and any parts of them, taken or possessed in violation of the law or the rules of the commission;

(5) Seize and hold, subject to law or the orders of the commission, devices which have been used to unlawfully take game, fish, birds, or fur-bearing animals;

(6) Arrest, in accordance with title 95, chapter 6, a violator of a fish and game law or rule of the commission, violation of which is a misdemeanor;

(7) Exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the commission, and judgments obtained for violation of those laws or rules.

Section 14. Section 26-115, R.C.M. 1947, is amended to read as follows:

"26-115. *State fish hatcheries.* The director *has* general supervision over all *fish* hatcheries in the state. The output of all hatcheries shall be used to stock the lakes and streams of the state and shall be for free and impartial distribution. *Distribution shall* be under the direction of *the department* subject to an official order of the director. The director *may* exchange spawn or fish with other states or persons for distribution in this state."

Section 15. Section 26-117, R.C.M. 1947, is amended to read as follows:

"26-117. **Powers and duties of** *department pertaining to* **state fisheries.** The *department has* full control of all state fish hatcheries and *is* responsible for their construction, maintenance, and operation. All *that* construction work done under contract or otherwise, shall be done under control and supervision of *the director.* The *department shall administer the* taking and collecting of all spawn, the hatching of all spawn and eggs, *and the* rearing, *propagation,* and distribution of fry, fingerlings, and fish. *The department may* purchase *as* many eyed eggs as *are* necessary to keep the hatcheries of the state supplied with eggs and in full operation. *The department* shall make every reasonable effort to collect sufficient eggs from the public streams or lakes of this state to supply *the* hatcheries, and for that purpose *may* build, equip, and use fish traps and nets at any *time* of the year in all public waters. *The department may* purchase the eyed eggs of fish not propagated in this state for the purpose of stocking the waters of this state."

Section 16. Section 26-118, R.C.M. 1947, is amended to read as follows:

"26-118. *Commission* **to control state waters for propagation of fish.** *The* commission *may* control the waters of any lake, pond, or stream, which *lies* wholly within the limits of land owned by the state, so far as the use of *that* lake, pond, or stream for the breeding and propagation of game fish is concerned. Before *the* right to control any lake, pond, or stream *inures* to the commission, the chairman of *the* commission *shall* notify the *department of state lands* that *the* lake, pond, or stream is wanted for *that* purpose,

giving a description of the land by legal subdivision when surveyed, or a sufficient general description when not so surveyed. *The department of state lands shall* make *that* entry upon *its* books and maps as may serve as notice to *a* lessor or purchaser of the right claimed by the state in *the* lake, pond, or stream. *The department of state lands* shall notify *a* lessor, purchaser, or applicant to lease or purchase of the fact that a right to the use of *the* lake, pond, or stream is so claimed. *This* right *may not* continue for more than one year after *the* land is sold by the state. *If* the right to the control of *a* lake, pond, or stream lessens the value of *that* land or prevents the ready sale *of it,* the right granted to the commission may be terminated upon giving sixty *(60)* days' notice of *the* termination to the chairman of the commission."

Section 17. Section 26-121, R.C.M. 1947, is amended to read as follows:

"26-121. **State fish and game moneys.** (1) All moneys collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, or from fines, damages collected for violations of the fish and game laws of this state, from appropriations, or received by the commission from any other state source, shall be turned over to the state treasurer, and placed by him in the earmarked revenue fund to the credit of the commission. *Out of any fine* imposed by a court for the violation of *the fish and game laws,* the costs of prosecution shall be paid to the county where the trial was held in any case where the fine is not imposed in addition to the costs of prosecution. Any moneys received from federal sources shall be deposited in the federal and private revenue fund to the credit of the commission.

(2) *Those* moneys *shall be* exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the commission under the terms of this *title. Those* moneys shall be *spent* for *those* purposes, by *the* commission, subject to appropriation by the *legislature.*

(3) Any reference to the fish and game fund in this code *means* fish and game moneys in the earmarked revenue fund and federal and private revenue fund."

Section 18. Section 26-123, R.C.M. 1947, is amended to read as follows:

"26-123. **Salaries, per diem and expenses, how paid.** All salaries, per diem, expenses, and claims incurred by the commission, or *a* person appointed or employed by them, shall be paid out of fish and game *moneys in the earmarked revenue fund,* upon warrants

properly drawn *on those funds. The* aggregate of all salaries, per diem, expenses, and claims presented for payment shall not exceed at any time the total amount *of* fish and game *moneys in that* fund. The commission shall approve all bills properly presented which have been incurred under its authority and by its direct order. The expenses of all *wardens* shall be approved by the *director* before they are paid. *The* salary, per diem, or expenses of *an* employee employed in the propagation or distribution of fish shall be approved by the *director* before they are paid. All items of expense, amounting to more than one and one-half dollars *and* incurred by anyone employed in the state fish and game department, shall be evidenced by a proper voucher or receipt before they *are* approved or paid."

Section 19. Section 26-124, R.C.M. 1947, is amended to read as follows:

"26-124. **Reports of director.** The director shall before June *1* of each year, make a written report to the commission of the operation of *the* department during the year ending *the preceding* April *30.*

Section 20. Section 26-125, R.C.M. 1947, is amended to read as follows:

"26-125. **Publication of laws.** As soon as practicable after the adjournment of each session of the legislature, the *director* in co-operation with the attorney general shall make a compilation of the laws relating to fish, game, game birds, and animals in force at the date of *the* compilation, and properly index *them.* Copies of *the* compilation, sufficient in number for the purposes of this section, shall be printed in pamphlet form, pocket size. *The director shall* distribute to justices of the peace, *wardens,* and other officers and persons empowered to issue licenses for hunting, fishing, and trapping, a supply of *the* compilation sufficient to permit one copy to be given anyone desiring *a copy.* The expense incurred *in* printing *the* laws shall be paid out of fish and game *moneys in the earmarked revenue* fund."

Section 21. Section 26-133, R.C.M. 1947, is amended to read as follows:

"26-133. **Payments to counties for department owned land — exceptions.** The *director* shall, before October *15* of each year, *send* a voucher to the treasurer of each county *in which* the department owns any lands. *The* voucher shall describe the lands and state the number of acres in each parcel. *The voucher* shall authorize the drawing of a warrant to the county in a sum equal to the amount of taxes which would be payable on county assessment of *the* property were it taxable to a private citizen. A county treasurer receiving a

voucher shall execute *it* and return it to the *director,* who shall approve it and transmit it to the state auditor. The state auditor shall draw a warrant in the amount shown on *the* voucher, payable to *the* county and shall *send the* warrant to the county treasurer. *The* warrant *is* payable out of any funds to the credit of the state fish and game commission. *No* voucher *or* payment *may* be made to *a* county *in which* the department owns less than one hundred (100) acres. *No* voucher *or* payment *may* be made to *a* county for lands owned by the department for game bird farm or fish hatchery purposes *or lands administered with money from the general fund.*"

Section 22. Section 26-136, R.C.M. 1947, is amended to read as follows:

"26-136. **Meat of wild animals so killed — disposition.** *The* meat of all animals killed or destroyed *pursuant to section 26-135* by the department or the authorized landholder shall be conserved and given to state institutions, school lunch programs, or *the department of social and rehabilitation services. The* department *shall* provide transportation and distribution of the meat."

Section 23. Section 26-210, R.C.M. 1947, is amended to read as follows:

"26-210. **Bounty claims for wild animals — approval and payment.** *(1)* The commission shall pay bounty claims for wild animals which have been filed *with* and approved *by* the *board of* livestock. *The* commission shall pay out of the state fish and game funds, other than those funds derived from license fees paid by hunters and fishermen, bounties on predatory wild animals, as *the* bounty claims are presented, not exceeding seven thousand five hundred dollars *($7,500)* per calendar year.

(2) The *board of* livestock shall, after *approving* the bounty claim, deliver the *claim* to the commission for rejection or approval. If *the* claim or certificate is rejected it shall be returned by the commission to the *board of* livestock. *If* approved, it shall be delivered to the *department of administration* for allowance or disallowance. *Nothing in this section takes* from the commission the exclusive power to administer *the fish and game moneys* at their discretion.

(3) If the *department of administration allows the* claim, *it must send it* to the auditor. *The* auditor must draw his warrant on the state fish and game *moneys in the earmarked revenue* fund for the amount approved in favor of the claimant, in the order in which the *claim* is approved."

Section 24. Section 26-213, R.C.M. 1947, is amended to read as follows:

"26-213. **Carrying and exhibiting license.** It *is* unlawful and a misdemeanor punishable as provided by section 26-324 for any person to whom a license or permit has been issued to fish for or take any fish, or pursue, hunt, shoot, kill, or take any game bird or game animal or attempt to trap, or trap, or take any fur-bearing animal in this state unless at the time he *has the* license or licenses, or permit, in his possession. *It is* unlawful to refuse to exhibit *a license or permit* for inspection to *a warden* or other officer requesting to see *it.*"

Section 25. Section 26-220, R.C.M. 1947, is amended to read as follows:

"26-220. **License agents — appointment.** The *director may* appoint license agents as needed to sell state hunting and fishing licenses, according to rules *adopted by* the commission."

Section 26. Section 26-221, R.C.M. 1947, is amended to read as follows:

"26-221. **Bond of license agent — preferred claim of state for license money.** *(1) An* appointed license agent shall furnish a corporate surety bond *of* one thousand dollars *($1,000),* or in an amount equal to the value of the licenses received for distribution, *the* amount to be fixed at the discretion of the *director. The* bond shall secure the faithful performance of the duties imposed on the license agent *and* the accounting for and payment *to the state* of all moneys received from the sale of hunting and fishing licenses. *The* license agent shall properly account for all unsold licenses annually on April *1,* or at any other time at the request of the *director.*

(2) All money received for the sale of licenses at all times *belongs* to the state. *In* case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state *has* a preferred claim against the assets and estate of *a* license agent for all moneys *owed* the state."

Section 27. Section 26-222, R.C.M. 1947, is amended to read as follows:

"26-222. **Compensation — duties.** License agents, except salaried *employees of the department,* shall receive for all services rendered the sum of fifteen cents (15¢) for each license issued. On or before the 10th day of each month each license agent shall submit to the *department* all duplicates of each class of licenses sold during the preceding month and shall accompany *the* duplicate licenses with all moneys received for the sale *of the licenses,* less a fee of fifteen cents (15¢) for each license sold. Each license agent shall keep his license account open at all reasonable hours *to inspection*

by the commission, the *director, the wardens,* or the *legislative auditor.*"

Section 28. Section 26-306, R.C.M. 1947, is amended to read as follows:

"26-306. **Private artificial lake or pond — stocking — license — bond — reports — restrictions on catching fish — penalty for violation.** *(1) A* person who owns or lawfully controls an artificial lake or pond may apply to the *director* for a fish pond license. *The* holder of a private fish pond license may stock *his* fish pond with fry procured from any lawful source. *The* commission may designate the species of fish which may be released in *the* pond when there is a possibility of fish escaping from the pond into adjacent streams or lakes. *The* license holder *may* take fish from *the* lake or pond in any manner. Before *a* license holder may sell fish or eggs or fry *from the lake or pond,* he shall furnish a corporate surety bond to the state *for* five hundred dollars *($500),* conditioned to the effect that he will not sell fish or spawn from any of the public waters of this state, and also conditioned to the effect that he will report to the *director* the quantity of fish, fish eggs, and spawn taken from *the* lake or pond. *This* report *shall* be made under oath annually during the month of January. A record of all transactions must be kept showing the species and numbers or pounds of fish sold, number and species of eggs sold, number and species of fry sold, name of person or persons to whom sold, and *the* date of transaction.

(2) "*Artificial* lake or pond" as used *in this section does not* include *a* natural pond or body of water created by natural means, nor any portion of the stream bed or lake bed thereof. *It includes* only bodies of water created by artificial means or diversion of water *which do* not exceed five hundred *(500)* acres of surface area.

(3) A person violating *this section is* guilty of a misdemeanor and shall be punished as provided in section 26-324."

Section 29. Section 26-324, R.C.M. 1947, is amended to read as follows:

"26-324. **Penalty.** *A* person violating any state *law* pertaining to fish and game thereto, or the orders, rules, and regulations of the commission *is,* unless a different punishment is expressly provided by law for *the* violation, guilty of a misdemeanor and shall be *fined* not less than twenty-five dollars *($25)* nor more than five hundred dollars, *($500),* or *imprisoned* in the county jail for not more than six (6) months, or both *fined and imprisoned. In* addition, *the* person shall, in the discretion of the court, forfeit his license and privilege to hunt, fish, or trap within this state for a period of sixteen (16) months from the date of conviction."

Section 30. Section 26-333, R.C.M. 1947, is amended to read as follows:

"26-333. **Record of seining licenses — refusal of license.** *The director shall* keep a record of all licenses issued by him for the use of a net for the taking of fish, showing the name of the applicant, the date of issue, the waters to be used in, and *the date of revocation if the license is* revoked. *The director shall* pay all fees received for *those* licenses into the state treasury to the credit of the fish and game *moneys in the earmarked revenue* fund. *A* license *may not* be issued to *a* person whose license has been revoked for cause."

Section 31. Section 26-345, R.C.M. 1947, is amended to read as follows:

"26-345. **Fire danger — Area closed to hunting and fishing.** When the fire danger becomes so extreme that the governor upon the advice and recommendation of the *department of natural resources and conservation* closes an area to trespass because of fire danger, that area *is* automatically closed to hunting or fishing and *remains* closed so long as the fire closure remains in effect."

Section 32. Section 26-402, R.C.M. 1947, is amended to read as follows:

"26-402. **Destruction of beaver for protection of public health.** *(1) When a* complaint is made to the *department* of health *and environmental sciences* that beaver are obstructing the free flow of a stream flowing through a settled area and into which sewage of a town or city is dumped, and the obstruction *endangers* public health the *department* of health *and environmental sciences* shall immediately investigate the complaint. *If* it finds that the work of the beavers endangers public health, it shall report the facts to the *department of* fish and game.

The commission *shall* immediately issue a permit, free of charge, to the landowner upon whose land the beaver dams are located for the removal of the beaver, the number of which shall be designated by the *warden* making the inspection. The landowner shall remove all beaver *and beaver dams* as provided by the permit, within ten *(10)* days after its issuance. *If* the landowner *refuses* to remove the beaver or the dams in the ten-day period, or if he does not desire to do so and so advises the commission, then the commission *may* remove *the* beaver by trapping or transplanting and remove their dam by blasting or other means.

(2) The commission shall furnish all labor needed to blast out or otherwise remove *the* beaver dams. Necessary explosives

shall be furnished by the county in which the beaver dams are located."

Section 33. Section 26-501, R.C.M. 1947, is amended to read as follows:

"26-501. **Protection of wild birds other than game birds.** *A* person who *hunts, captures, kills, possesses, purchases, offers or exposes* for sale, *ships, or transports* any wild bird other than a game bird, or any part of the plumage, skin, or body of *the* bird, irrespective of whether *the* bird was captured or killed within the state, or take or destroy the nest or eggs of *a* wild bird, except under a certificate, falconer's license or permit issued by the state fish and game *director is* guilty of a misdemeanor and shall be punished as provided by section 26-324. *This* section *does* not apply to the hunting, trapping, or killing of house sparrows, crows, starlings, rock doves, blackbirds, and magpies, and other birds the fish and game commission *designates,* or the taking or destruction of their nests and eggs."

Section 34. Section 26-501.1, R.C.M. 1947, is amended to read as follows:

"26-501.1. **Protection and conservation of raptors — falconry.** (1) *"Raptors"* when used in this section *means* all birds of the orders falconiformes and strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(2) *A* person *may not* at any time hunt, capture, kill, possess, purchase, offer or expose for sale, *or* transport *a* raptor except as provided *in this section.*

(3) The commission may *adopt* specific *rules* for the keeping of records, *and for the* trapping, taking, possession, or training of raptors used in the practice of falconry, and may authorize the issuance of licenses to persons for the practice of falconry. It *is* unlawful for a resident of *this state* to possess a raptor or to train *a* raptor in the practice of falconry *without a* license.

(4) The peregrine falcon (Falcon peregrinus), bald eagle (Haliaetus leucocephalus), golden eagle (Aquila chrysaetos), and osprey (Pandion haliaetus) may not be captured in *this* state for the sport of falconry.

(5) The fee for a falconry license is three dollars ($3) a year or any part *of a year. A license expires* April *30* each year.

(6) *A* license *may not* be issued to *a* person under the age of twelve (12) years.

(7) Species of raptors which are native to North America

may be brought into Montana for the purpose of falconry unless *that* action is specifically prohibited by this section, the laws of other states, or the regulations of the federal government. *Those* raptors may be possessed, subject *to* this section. *A* person bringing a raptor into *this* state must be able to show proof of the area of origin.

(8) *A* licensee *may not* at any time possess more than three (3) raptors, *including* those that *have been* imported.

(9) Licensees may take raptors as young or fledglings from nest (unless specifically prohibited by commission *rules*), or by traps or nets which are humane in their operation and use. Not more than one (1) young may be taken from one (1) nest by a permittee or permittees, and at least one (1) young must be left in the nest. The commission may close an area of the state to the taking of raptors at any time or designate other raptors which may not be taken. This *subsection* does not permit the removal of raptors in any national or state refuge or park or in any area in which local laws may prohibit *that* activity. Trapping raptors is permitted only between September 1 and February 1.

(10) Raptors *may* not be used to intentially flush or harass big game.

(11) Raptors may not be loosed intentionally at protected mamals and birds. Game bird limits and all seasons and other regulations relating to game birds must be obeyed.

(12) *A* licensee *may* not transfer ownership or possession of *a* raptor taken or possessed under the provisions of *this section* without notifying the department *of fish and game* within ten (10) days after the date of transfer.

(13) Licensees shall have in possession a valid falconer's license when engaged in the practice of falconery. In addition, falconers loosing raptors at game birds or unprotected birds or mammals shall have in possession a valid hunting license.

(14) Falconry *licenses* or permits are not transferable and may be revoked for due cause at any time by the department.

(15) *A* person *may not* sell or offer for sale Montana raptors in *this* state. *A person may not* transport raptors out of the state except by permit issued by the department.

(16) *A* person who violates *this section or section* 26-501 is guilty of a misdemeanor and shall be *prosecuted under* section 26-324.

(17) Predatory hawks and owls destroying livestock or poultry may be killed at any time by *the* livestock or poultry owners. Eagles may be killed in compliance with federal law and regulation."

Section 35. Section 26-506, R.C.M. 1947, is amended to read as follows:

"26-506. **Sale of confiscated birds and animals.** All birds, animals, fish, heads, hides, teeth, or other parts of any animal seized by any officer *or warden* shall be sold, under the direction of the *director* or *wardens*, at a time, place, and manner so as to receive the highest price. *The sale* shall be at public auction to the highest and best bidder. *The director* or his *wardens* shall *publish* notice of the time and place of *the* sale, together with a description of the birds, fish, animals, or parts or portions of animals to be sold, in a newspaper of general circulation published in the county where *the* sale is to be held. *The notice shall be published at least once,* and the sale shall not be less than five (5) nor more than thirty (30) days after the last publication. *If* the property seized is perishable, *it* may be sold by *those* officers without publishing notice *of the sale. The property may be sold* upon *that* public notice, and under *those* terms and conditions *which* in the discretion of the officers seem conducive to *securing* full value."

Section 36. Section 26-509, R.C.M. 1947, is amended to read as follows:

"26-509. **Record of confiscated property.** *The director and wardens shall keep a* complete record of all property confiscated because of a violation of the game and fish laws, showing in detail a description of the property, the person from whom it was confiscated, the price received *for it* upon public sale, and the disposition of the money."

Section 37. Section 26-908, R.C.M. 1947, is amended to read as follows:

"26-908. **Outfitters and guides law—definitions.** As used in this act, unless the context *requires* otherwise: (1) "Outfitter" *has the definition given it* in section 26-904.

(2) "Professional guide" means a person who is an employee of an outfitter and who furnishes only personal guiding services in assisting a person to hunt or take game animals or fish and who does not furnish any facilities, transportation, or equipment.

(3) "Resident guide" means *a* resident who guides resident or nonresident friends for the purpose of hunting game animals without compensation.

(4) "Advisory council" means the Montana *outfitters' council provided for in section 82A-2005.*

(5) "Resident" means *a* person who qualifies for a resident Montana hunting or fishing license under section 26-202.3.

(6) "Nonresident" means *a* person other than a resident.

(7) "License year" means that period commencing May 1 and ending April 30 of the next year.

Section 38. Section 26-911, R.C.M. 1947, is amended to read as follows:

"26-911. **Powers and duties of** *department.* The *department* shall:

(1) Prepare and publish an information pamphlet which contains the names and addresses of all licensed outfitters. *This* pamphlet shall be available for free distribution as early as possible during each calendar year, but not later than the second Friday in March. The pamphlet shall contain the names and addresses of only those outfitters who have a valid license for the current year. The costs of publication of *the* pamphlet shall be paid from the *earmarked revenue fund, fish* and game *account;*

(2) Cooperate with the federal government through its appropriate agencies or instrumentalities in matters of mutual concern regarding the business of outfitting and guiding in Montana;

(3) Establish a minimum of two (2) meetings annually with the advisory council;

(4) Consult with the advisory council to develop policy concerning the administration of outfitting and to transmit the council recommendations to the commission.

(5) Designate a warden or ex officio warden with no conflict of interest whose primary duties are to administer outfitting and guiding laws and regulations."

Section 39. Section 26-912, R.C.M. 1947, is amended to read as follows:

"26-912. **Outfitters' council—powers and duties.** The council shall *have the authority and duty to* make recommendations to the commission and the director as to:

(1) Outfitter standards;

(2) Rules *of procedures and regulations to effectuate* this act, including but not limited to *rules* prescribing all requisite qualifications for license. *These qualifications shall include* training, experience, knowledge of rules *and regulations of governmental bodies* pertaining to outfitting, and condition and type of gear and equipment;

(3) Hearings and proceedings to suspend or revoke licenses

of outfitters *and* guides *and to recommend suspension or revocation of licenses for due cause;*

(4) Any reasonable rules, *and regulations* not in conflict with this act, *necessary for* safeguarding the health, safety, and welfare of those persons utilizing the services of outfitters and for the protection of landowners and the general public."

Section 40. Section 26-921, R.C.M. 1947, is amended to read as follows:

"26-921. *Enforcement.* The *warden or ex officio warden, designated by the department to primarily administer outfitting and guiding laws and regulations, and other wardens and all peace officers shall* enforce this act."

Section 41. Section 26-1001, R.C.M. 1947, is amended to read as follows:

"26-1001. **Disposition of fines, bond and penalties—serving out fines and costs.** All fines, bonds, and penalties mentioned in this *title* may be collected by civil action in the name of the state in any court of competent jurisdiction. All fines, bonds, and costs shall be collected without stay of execution."

Section 42. Section 26-1002, R.C.M. 1947, is amended to read as follows:

"26-1002. **Payment of cost bill to county wherein costs were incurred.** *In* a prosecution for the violation of fish and game laws *where* costs *are* incurred, a cost bill shall be prepared. *The cost bill shall include* the cost of board of prisoners and *shall be* presented to the *department of administration. If the costs are* allowed, the state treasurer shall pay *them,* out of the *fish and game moneys in the earmarked revenue fund,* to the treasurer of the county *where the* costs were incurred."

Section 43. Section 26-1008, R.C.M. 1947, is amended to read as follows:

"26-1008. **Permit for taking fish or game for scientific purposes.** It *is* lawful for the duly accredited representative of *an accredited* school, college, university, or other institution of learning, *or of any governmental agency,* who may be investigating a scientific subject making *it* necessary, to take, kill, capture, and *possess* for *that* purpose any birds, fish, or animals *protected by Montana law or state fish and game regulation. He may* take, kill, and capture *protected or unprotected birds, fish or animals* in any way, except by the explosion of dynamite. *No* more of *the* birds, fish, or animals *may* be taken than are necessary for *the* investigation. *A* person who *desires* to engage in *the* scientific investigation shall apply to the

director for a *permit. The director may set qualifications for persons to whom permits are issued and may place special authorizations or special requirements and limitations on any permit.* If the *director* is satisfied of the good faith of the applicant, he shall issue a *permit,* which shall place a time limit *on the collections and may* place a restriction *on* the number of birds, fish or animals to be taken, *and shall require a report of the numbers and species of animals taken by collection areas. The permittee* shall pay five dollars *($5) for the permit. The permittee may not* take, have, or capture any other or greater number of birds, fish, or animals than are mentioned in *the* permit. *Any representative of an accredited school, college, university, or other institution of learning who may have various students or associates assisting him throughout the year may apply to have his permit issued to himself and his associates. The associates, when carrying a copy of the permit, shall have the same authorizations and restrictions as the original applicant. The original applicant shall keep a record of all associates to whom he issued a copy of his permit and of the times for which each associate is issued a copy. The original applicant is responsible for his associates' use of the permit or copies of the permit, including their reports of species and numbers of animals collected. A* person violating this section *is* guilty of a misdemeanor, punishable as provided by section 26-324."

Section 44. Section 26-1101, R.C.M. 1947, is amended to read as follows:

"26-1101. **Creation of game preserves—provisions thereof—penalties for violation of provisions.** *(1)* There are, for the better protection of all the game animals and birds within *their* limits, game preserves within the state. *Except* as provided *in this section,* no person *may* within the limits of *a* game preserve created by the legislature or by the fish and game commission, hunt for, trap, capture, kill, or take game animals, fur-bearing animals or birds of any kind. *Within* the limits of *a* preserve, *a person may not* carry or discharge firearms, create any unusual disturbance tending to frighten or drive away any of the game animals or birds, or chase *them* with dogs. *The* commission may declare any preserve open to the trapping of fur-bearing animals during the regular open season.

(2) Permits to capture animals or birds for the purpose of propagation or for scientific purposes, to trap fur-bearing animals, to destroy mountain lions, wolves, foxes, coyotes, wildcats, lynx, or other predatory animals or birds, or for carrying firearms may be issued by the *director,* upon the payment of *the* fee and in accordance with *rules* established for *the* preserve by the commission. *A* person violating this section or any other law relating to game preserves, *is* guilty of a misdemeanor and shall be *punished* as provided by section 26-324."

Section 45. Section 26-1205, R.C.M. 1947, is amended to read as follows:

"26-1205. **Regulation of roadside menageries or zoos—definitions.** As used in *sections 26-1205 through 26-1212,* unless the context *requires* otherwise:

(1) "Roadside menagerie or zoo" means any place where one (1) or more wild animals, including birds, reptiles, and the like are kept in captivity, for the evident purpose of exhibition or attracting trade. *It* does not include the exhibition of any animal by *an* educational institution or in *a* zoological garden chartered as a nonprofit corporation by the state *and does not include* animals exhibited by any traveling theatrical exhibition or circus.

(2) "Wild animal" means *an* animal wild by nature as distinguished from the common domestic animals, whether *the* animal was bred or reared in captivity, and includes birds and reptiles."

Section 46. Section 26-1212, R.C.M. 1947, is amended to read as follows:

"26-1212. **Disposal of fines, bonds or penalties—fees.** Fines, bonds, or penalties shall be administered and disposed of in accordance with the provisions of section *26-121.* Fees obtained under *sections 26-1205 through 26-1212* shall be deposited with the state treasurer and credited to the earmarked revenue fund, fish and game account."

Section 47. Section 26-1302, R.C.M. 1947, is amended to read as follows:

"26-1302. **Records to be kept by fur dealers—inspection.** *(1) A* fur dealer shall keep a book in which shall be recorded separately on the date of each transaction the following facts:

(a) The number and kind of all skins or pelts purchased or sold by *the* fur dealer;

(b) The place where *the* skins or furs were killed or trapped and a separate record of all *the* skins or pelts as were killed or trapped outside *this* state;

(c) The trapping license number under which *the* furs or pelts were taken in cases where a trapper's license is required;

(d) The names and addresses of the persons to whom *the* skins or pelts were sold or from whom they were purchased.

(2) This book shall be open at all reasonable times to the inspection of the state fish and game *director* or any *warden,* or any United States game warden, and shall be preserved and accessible for one year after the expiration of any license granted to *the* fur dealer."

Section 48. Section 26-1303, R.C.M. 1947, is amended to read as follows:

"26-1303. **Persons required to procure fur dealer's license.** *A* fur *dealer* shall, before buying, selling, or in any manner dealing in the skins or pelts of any fur-bearing or predatory animal within *this* state secure a fur dealer's license from the *director. No* license *is* required for a hunter or trapper selling skins or pelts which he has lawfully taken, nor for *a* person not a fur dealer who purchases skins or pelts exclusively for his own use and not for sale."

Section 49. Section 62-304, R.C.M. 1947, is amended to read as follows:

"62-304. **Powers and duties.** The commission *shall* make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state, and *may* by purchase, lease, agreement, acceptance of donations, or condemnation acquire for the state any areas, sites, or objects which in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historical sites. The commission *may* in its discretion accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state. *It may in its* discretion accept gifts, grants, bequests, or contributions of money or other property to be *spent* or used for any of the purposes of *sections 62-301 through 62-308. A* contract *may not* be entered into or other obligation incurred until moneys have been appropriated by the legislature or are otherwise available. The commission also *has* jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, historical sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the *department of highways* and contiguous to the state highway system. The commission *may* designate lands under its control as state parks, state historical sites, state monuments, or by *any* other designation it *considers* appropriate, *remove or change the designation of* any area or portion, and name or change the name of any area as designated. *The commission may* lease *those* portions of designated lands *which are* necessary for the proper administration of these lands in keeping with the basic purpose of *sections 62-301 through 62-308."*

Section 50. Section 62-307, R.C.M. 1947, is amended to read as follows:

"62-307. **Connecting roads.** The *department of highways may* construct, improve, and maintain with state highway funds connect-

ing roads between existing state highways and state parks. *Each* road shall not exceed a total length of ten (10) miles."

Section 51. Section 69-3504, R.C.M. 1947, is amended to read as follows:

"69-3504. **Identification number.** (a) The owner of each motorboat or vessel requiring numbering by this state shall file an application for number, accompanied by a certificate of tax of personal property showing payment of tax on the motorboat or vessel for the current year, with the *department of revenue* or its designated representative, on forms approved by the board. The application shall be signed by the owner of the motorboat or vessel, and shall be accompanied by a fee of one ($1) dollar. Upon receipt of the application in approved form and certificate hereinabove referred to, the board shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat or vessel and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat or vessel, the identification number in *a* manner as may be prescribed by rules of the board, in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat or vessel for which issued, whenever *the* motorboat or vessel is in operation.

(b) The numbering requirements of this act shall apply to motorboats or vessels operated by manufacturers or dealers except that the description of the motorboat or vessel shall be omitted from the certificate of number and such number shall be permitted to be transferred from one vessel to another. *Instead* of the descriptive material on *the* certificate of number the word "manufacturer" or "dealer" as appropriate, will appear on *the* certificate. The manufacturer or dealer may have the number awarded printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to a vessel to be demonstrated or tested so long as the number is exhibited so as to in all other respects meet the requirements of act relating to display of numbers.

(c) The owner of any motorboat or vessel already covered by a number in full force and effect, which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state, shall record the number prior to operating the motorboat or vessel on the waters of this state in excess of the ninety-day reciprocity period provided for in section 69-3506(1). Such recordation shall be in the manner and pursuant to the procedure required for the award of number under subsection

(a) of this section, except that no additional or substitute number shall be issued.

(d) Should the ownership of a motorboat or vessel change, a new application form with fee shall be filed with the board and a new certificate of number shall be awarded in the same manner as provided for in an original award of number, provided further that the number assigned may be determined by the board.

(e) *If* an agency of the United States government *has* in force an over-all system of identification numbering for motorboats or vessels *in* the United States, the numbering system employed pursuant to this act by the board shall be in conformity therewith.

(f) The board may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. *If* a person accepts *the* authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this act and with any rules of the board shall be valid as if awarded directly by the board.

(g) All records of the board made or kept *under* this act shall be public records. *The* board shall submit to the *department of law enforcement and public safety,* correct copies of all certificates of registration issued *under* this act; and *the department of law enforcement and public safety* shall make *these* records immediately available to all law enforcement offices of this state.

(h) Every certificate of number awarded *under* this act shall continue in effect for a period not to exceed one (1) year, and shall be renewed annually unless sooner terminated or discontinued in accordance with the provisions of this act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the *certificate.* The board shall notify each owner of a registered vessel of expiration of registration a reasonable time prior to expiration of registration.

(i) The board shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any effect unless renewed *under* this act.

(j) In event of transfer of ownership, the purchaser shall furnish the board notice of the acquisition of all or any part of his interest other than the creation of a security interest in a motorboat or vessel numbered in this state *under* subsections (a) and (b) of this section, or of the destruction or abandonment of *the* motorboat or vessel, within reasonable time thereof. Such transfer, destruction or abandonment shall terminate the certificate of number for *the* motorboat or vessel except that in the case of a transfer

of a part interest which does not affect the owner's right to operate *the* motorboat or vessel, *the* transfer *does* not terminate the certificate of number.

(k) *A* holder of a certificate of number shall notify the board within reasonable time if his address no longer conforms to the address appearing on the certificate and shall, as a part of *the* notification, furnish the board with his new address. The board may provide in its rules for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or the alteration of an outstanding certificate to show the new address of the holder.

(l) No number other than the number awarded to a motorboat or vessel or granted reciprocity *under* this act, shall be painted, attached or otherwise displayed on either side of the bow of *the* motorboat or vessel.

(m) Fees collected under this section shall be transmitted to the state treasurer who shall deposit the fees in the motorboat certificate identification account of an earmarked revenue fund. These fees shall be used only for the administration and enforcement of sections 69-3501 through 69-3500.1 and 69-3508.2 through 69-3518."

Section 52. Section 69-3505, R.C.M. 1947, in amended to read as follows:

"69-3505. **Equipment.** (1) Every vessel shall have aboard:

(a) One life preserver, buoyant vest, ring buoy or buoyant cushion of the type approved by the commandant of the United States coast guard in good and serviceable condition for each person on board. *In* boats under twenty-six (26) feet in length, *in which a* person *under the age of thirteen (13) years is in, while the vessel* is in motion, *that person* shall have a life preserver of a type approved by the commandant of the United States coast guard securely fastened to his person.

(b) When in operation during hours of darkness, a light sufficient to make the motorboat's or vessel's presence and location known to all other vessels within a reasonable distance.

(c) If carrying or using any inflammable or toxic fluid in any enclosure for any purpose, and if not an entirely open motorboat or vessel, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during the time *the* motorboat or vessel is occupied by *a* person.

(d) All motorboats shall carry the minimum number of coast guard approved hand portable fire extinguishers, the number of

which is to be determined by the Montana fish and game commission or a coast guard approved fixed fire extinguishing system, except, that motorboats less than twenty-six (26) feet in length of open construction, propelled by outboard motors, and not carrying passengers for hire need not carry such portable fire extinguishers or fire extinguishing systems.

(2) Every motorboat or vessel shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with an efficient flame arrester, backfire trap, or other similar device.

(3) The board *may adopt* rules modifying the equipment requirements contained in this section to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation laws or with the navigation rules promulgated by the United States coast guard.

(4) A person *may not* operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

(5) A vessel *may not* be equipped in a manner which will permit discharge of inadequately treated sewage into waters of this state. No container of inadequately treated sewage *may* be placed, left or discharged in or near waters of this state by anyone at any time. All toilets located on any vessel operated on waters of this state shall have securely affixed to the interior discharge opening of them an operating treatment device or retaining tank meeting the standards established by the board of health *and environmental sciences."*

Section 53. Section 69-6602, R.C.M. 1947, is amended to read as follows:

"69-6602. **Definitions.** As used in this act:

(1) "Department" means the department of administration provided for in title 82A, chapter 2.

(2) "Industry" means the passenger tramway business activities of all those persons in the state who own, manage, or direct the operation of passenger tramways.

(3) "Operator" means a person, including any political subdivision or instrumentality thereof, who owns, manages or directs the operation of a passenger tramway.

(4) "Area" means the area, terrain or ski slopes served by a passenger tramway.

(5) "Passenger tramway" *means* a device used to transport passengers by means of any of the following:

(a) Two-car aerial passenger tramway, a device used to transport passengers in two open or enclosed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices;

(b) Multi-car aerial passenger tramway, a device used to transport passengers in several open or enclosed cars or carrying device attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar devices;

(c) Skimobile, a device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar devices;

(d) Chair lift, a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one or more spans, or similar devices;

(e) J bar, T bar or platter pull, so-called, and similar types of devices or means of transportation which pull skiers riding on skies by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans;

(f) Rope tow, a type of transportation which pulls the skiers, riding on skis as the skier grasps the rope or wire rope manually, or similar devices."

Section 54. There is a new section numbered 82A-2001.1, R.C.M. 1947, which reads as follows:

82A-2001.1. **Functions of department.** The department and its units are responsible for administering laws pertaining to fish and game, including, but not limited to:

(1) Fish, game, and outfitters (title 26);

(2) State parks (title 62, chapter 3);

(3) Outdoor recreational resources (title 62, chapter 4);

(4) Motorboat and vessel regulations (title 69, chapter 35).

Section 55. Section 82A-2003, R.C.M. 1947, is amended to read as follows:

"82A-2003. **Director of fish and game department.** *(1) There is a* director *of fish and game who* shall be appointed by the governor in the manner set forth in section 82A-106, except that the director shall serve a term concurrent with the governor's term, and the director may be removed from office by the governor only for

neglect of duty, incompetency, or other good cause, and after a full hearing on verified charges. *The charges shall be* filed, *and a copy served on the director,* at least twenty (20) days before *the* hearing.

(2) The director shall have experience, special training, and skill in wildlife protection, conservation and management.

(3) The director is not a department head for purposes of section 82A-107."

Section 56. Section 82A-2004, R.C.M. 1947, is amended to read as follows:

"82A-2004. **State fish and game commission**—*composition—qualifications*—**designation.** (1) *There is a* state fish and game commission.

(2) The commission consists of five (5) members. At least one member shall be experienced in the breeding and management of domestic livestock. The governor shall appoint one (1) member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweetgrass counties;

(c) District No. 3, consisitng of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie counties.

(3) Appointments shall be made without regard to political affiliation and shall be made solely for the welfare of the fish, game, and wildlife of this state. A person may not be appointed to the commission unless he is informed or interested and experienced in the subject of wildlife, fish and game, and the requirements for the conservation and protection of fish, game, and game birds and animals.

(4) A vacancy occuring on the commission shall be filled by the governor with the consent of the senate in the same manner and from the district in which the vacancy occurs.

(5) The state fish and game commission is designated as a quasi-judicial board for purposes of section 82A-112 of this act."

Section 57. There is a new section numbered 82A-2005, R.C.M. 1947, which reads as follows:

82A-2005. **Montana outfitters' council—composition—qualifications—terms—allocation.** (1) There is a Montana outfitters' council.

(2) The council consists of seven (7) members. Each member shall be a licensed outfitter and shall represent one (1) of the seven (7) fish and game administrative districts. A member shall be selected by the licensed outfitters residing in that district by election at an annual meeting of the outfitters to be held in the district headquarters at 1:00 p.m. on the second Friday of March. A majority vote of all the outfitters in attendance at the meeting shall determine the member from the district. At the election an alternate member shall also be elected to servie if the first elected member is unable to act.

(3) The members shall serve staggered three (3) year terms and take office on the day they are elected.

(4) The council is allocated to the department.

(5) The council is not subject to the provisions of section 82A-110.

(a) Wherever the words "Montana aerial tramway safety board," "passenger tramway safety board," or "board" appear in sections 69-6601, 69-6605, 69-6606, 69-6607, 69-6608, 69-6609, 69-6610, 69-6611, 69-6612, 69-6613, 69-6614, the word "department" is substituted therefor.

Section 58. Sections 26-101, 26-102, 26-104.2, 26-105, 26-105.1, 26-106.1, 26-106.2, 26-116, 26-120, 26-209, 26-224, 26-905, 26-910, 62-309, 62-404, 69-6603, 69-6604, 82A-217, 82A-2002, R.C.M. 1947, are repealed.

Approved: April 4, 1973.

CHAPTER NO. 512

An Act to Provide That Agricultural Land Shall Be Classified, Appraised, and Assessed According to its Value For Agricultural Purposes without Regard to the Value it May Have For Other Purposes; and Defining Agricultural Lands, Establishing Procedure and Providing a Penalty; Amending Sections 84-401 and 84-429.12, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Since the market value of many farm properties is based upon speculative purchases which do not reflect the productive capability of farms, it is the legislative intent that bona fide farm properties shall be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes.

Section 2. Section 84-401, R.C.M. 1947, is amended to read as follows:

"84-401. **Property assessed at cash value.** All taxable property must be assessed at its full cash value *except the assessment of agricultural lands shall be based upon the productive capacity of the lands when valued for agricultural purposes and shall be so valued unless a different use is demonstrated.* Land and the improvements thereon must be separately assessed."

Section 3. Section 84-429.12, R.C.M. 1947, is amended to read as follows:

"84-429.12. **Classification and appraisal—general and uniform methods.** It is hereby made the duty of the state *department of revenue* to implement the provisions of this act by providing:

1. For a general and uniform method of classifying lands in the state of Montana for the purpose of securing an equitable and uniform basis of assessment of said lands for taxation purposes.

All lands shall be classified according to their use or uses and graded within each class according to soil and productive capacity. In such classification work, use shall be made of soil surveys and maps and all other pertinent available information. All lands must be classified by forty (40) acre tracts or fractional lots.

All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

2. For a general and uniform method of appraising city and town lots.

3. For a general and uniform method of appraising rural and urban improvements.

4. For a general and uniform method of appraising timberlands."

Section 4. Land which is actively devoted to agricultural use